

## Bureau of Land Management, Interior

## Pt. 8560

books, documents, papers, and records of the operator or permittee involving transactions related to the permit. The operator or permittee also will allow the authorized officer, or other duly authorized representative of the Bureau, to have access to and the right to examine any directly pertinent books, documents, papers, and records of any employee or agent of the permittee or operator. These allowances and rights terminate 3 years after the expiration of the permit.

(b) *Stipulations.* A special recreation permit will contain such stipulations as the authorized officer considers necessary to protect the lands and resources involved and the public interest in general.

(c) *Bonds.* In addition to a payment bond, the authorized officer may require the posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.

(d) *Insurance.* The authorized officer shall require all commercial and competitive applicants, and may require other applicants, to obtain and submit a property damage, personal injury, and public liability insurance policy which he judges sufficient to protect the public and the United States. The policy shall name the U.S. Government as a co-insured and stipulate that the authorized officer of the Bureau of Land Management shall be notified 30 days in advance of the termination or modification of the policy.

(e) *Liability.* The permittee shall indemnify the United States against any responsibility or liability for damage, injury, or loss to persons and property which may occur during the permitted use period or as a result of such use.

(f) *Violation of law.* The conviction of a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities that is related to said

special recreation permit may result in the cancellation of the permit.

### § 8372.6 Appeals.

(a) Any person adversely affected by a decision of the authorized officer under this part may appeal under part 4 of this title from any final decision of the authorized officer.

(b) All decisions of the authorized officer under this part shall remain effective pending appeal unless the Secretary rules otherwise. Petitions for stay of decisions shall be filed with the Office of Hearings and Appeals, Department of the Interior.

[49 FR 34338, Aug. 29, 1984, as amended at 53 FR 10394, Mar. 31, 1988]

## Group 8500—Wilderness Management

## PART 8560—WILDERNESS AREAS

### Subpart 8560—Management of Designated Wilderness Areas

#### Sec.

- 8560.0-1 Purpose.
- 8560.0-2 Objective.
- 8560.0-3 Authority.
- 8560.0-5 Definitions.
- 8560.0-6 Policy.
- 8560.1 Uses and prohibited acts.
- 8560.1-1 Permits for and restrictions on use.
- 8560.1-2 Prohibited acts.
- 8560.2 Special provisions applicable to Alaska. [Reserved]
- 8560.3 Administrative and emergency functions.
- 8560.4 Nonconforming uses.
- 8560.4-1 Livestock grazing.
- 8560.4-2 Aircraft and motorboats.
- 8560.4-3 Access.
- 8560.4-4 Commercial services.
- 8560.4-5 Gathering information about resources.
- 8560.4-6 Mining law administration.
- 8560.4-7 Mineral leases and mineral permits.
- 8560.4-8 Water and power resources.
- 8560.5 Penalties.

AUTHORITY: 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 1131 *et seq.*

SOURCE: 50 FR 7708, Feb. 25, 1985, unless otherwise noted.

### Subpart 8560—Management of Designated Wilderness Areas

#### § 8560.0-1 Purpose.

The purpose of this part is to provide procedures for the management of public land designated by Congress as part of the National Wilderness Preservation System and administered under provisions of the Wilderness Act of 1964.

#### § 8560.0-2 Objective.

The objective of these regulations is management of the public lands designated as part of the National Wilderness Preservation System to preserve and protect their wilderness character, provide for their use and enjoyment by the American people in a manner that will leave them unimpaired for future use and enjoyment as wilderness, and allow for recreational, scenic, scientific, educational, conservation, and historical use.

#### § 8560.0-3 Authority.

This part is issued under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), and the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*).

#### § 8560.0-5 Definitions.

As used in this part, the term:

(a) *Adequate access* means the combination of routes and modes of travel to non-Federal inholdings that will, as determined by the authorized officer, serve the reasonable purposes for which the non-Federal lands are held or used, and at the same time, cause impacts of least duration and degree on their wilderness character.

(b) *Authorized officer* means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(c) *Bureau* means the Bureau of Land Management.

(d) *Mechanical transport* means (1) any device for transporting personnel or material with wheels, tracks, or skids, or by flotation, for traveling over land, water, or snow, and is propelled by a nonliving power source contained or

carried on or within the device, or (2) a bicycle or hang-glider.

(e) *Motorized equipment* means any machine activated by a nonliving power source except small battery-powered, handcarried devices such as flashlights, shavers, Geiger counters, and cameras.

(f) *Motor vehicle* means any vehicle which is self-propelled or any vehicle which is propelled by electric power obtained from batteries.

(g) *Mining operations* means all functions, work and activities in connection with prospecting, exploration, development, mining or processing of mineral resources and all uses of the land reasonably incident thereto, including roads and other means of access on lands subject to the regulations in this part, regardless of whether said operations take place on or off mining claims.

(h) *Primitive and unconfined recreation* means nonmotorized types of outdoor recreation activities that do not require developed facilities.

(i) *Public lands* means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard of how the United States acquired ownership.

(j) *Solitude* means the state of being alone or remote from habitation; isolation; also, a lonely, unfrequented, or secluded place.

(k) *Visitor use* means on-site use of the wilderness area for recreation, inspiration, stimulation, solitude, relaxation, education, scientific research, pleasure, or satisfaction.

(l) *Wilderness* is defined in the same way as in section 2(c) of the Wilderness Act of 1964, 16 U.S.C. 1131(c).

(m) *Wilderness character or characteristics* are defined in the same way as in section 2(c) of the Wilderness Act of 1964, 16 U.S.C. 1131(c).

#### § 8560.0-6 Policy.

Wilderness areas shall be managed to promote, perpetuate and, where necessary, restore the wilderness character of the land and its specific values of solitude, physical and mental challenge, scientific study, inspiration, primitive recreation, watersheds and

## Bureau of Land Management, Interior

## § 8560.1-2

water yield, wildlife habitat, natural plant communities, and similar natural and recreational values.

(a) Natural ecological succession shall be allowed to operate freely to the extent permitted by the Wilderness Act:

(b) Wilderness shall be made available for human use to the optimum extent consistent with the maintenance of wilderness character;

(c) In resolving conflicts in resource use, wilderness values shall be primary to the extent provided by the Wilderness Act or subsequent establishing legislation.

### § 8560.1 Uses and prohibited acts.

#### § 8560.1-1 Permits for and restrictions on use.

(a) Unless otherwise designated by the authorized officer, all wilderness areas shall be open to uses consistent with the preservation of their wilderness character and their future use and enjoyment by the American people as wilderness, including, but not limited to, primitive recreation and scientific study. The authorized officer may require permits for any use of particular wilderness areas, including, but not limited to, camping, campfires, and grazing of recreation livestock, and may issue written orders to close or restrict the use of lands and water surface administered by the Bureau within the boundary of any component of the National Wilderness Preservation System when necessary to carry out the provisions of the Wilderness Act. Each order shall:

(1) Describe the lands, trail, or waterway to which the order applies;

(2) Specify the time during which the closure or restriction applies;

(3) State each prohibition that is applied;

(4) Specify the reason for the closure, restriction, or prohibition; and

(5) Specify any person exempted from any of the prohibitions contained in the order.

(b) An order to close or to restrict the use of lands and water surface shall be effective upon posting. Posting shall be by:

(1) Placing a copy of the order in each local office of the Bureau having

jurisdiction over lands affected by the order, and

(2) Displaying each order near and/or within the affected wilderness area in such reasonable locations and in such a manner as to bring the prohibitions contained in the order to the attention of the public.

(c) The authorized officer may publish in the FEDERAL REGISTER, and/or in a newspaper of general circulation in the area of the affected lands, a copy of the order to close or restrict the use of lands or water surface.

(d) Permits may be requested from the Bureau office exercising field-level jurisdiction over the wilderness areas for which use permits are required by the authorized officer.

(e) When a permit for use is required by the authorized officer, applications for recreation uses shall be completed in accordance with the provisions of 43 CFR part 8372.

#### § 8560.1-2 Prohibited acts.

Except as provided in the Wilderness Act or subsequent legislation establishing a particular wilderness area, or as specifically provided for elsewhere in this subpart, and subject to valid existing rights, the following are prohibited in wilderness areas managed by the Bureau:

(a) Commercial enterprises;

(b) Temporary or permanent roads;

(c) Aircraft landing strips, heliports, or helispots;

(d) Use of motorized equipment, motor vehicles, motorboats, or other forms of mechanical transport;

(e) Landing of aircraft;

(f) Dropping of materials, supplies, or persons from aircraft;

(g) Structures or installations, including motels, summer homes, stores, resorts, organization camps, hunting and fishing lodges, electronic installations, and similar structures and uses;

(h) Cutting of trees;

(i) Violating any order or regulation established by the authorized officer;

(j) Entry into or use of wilderness areas without a permit, where such permits are required by the authorized officer.

## **§ 8560.2**

### **§ 8560.2 Special provisions applicable to Alaska. [Reserved]**

### **§ 8560.3 Administrative and emergency functions.**

To the extent authorized by law, the authorized officer may:

(a) Use, construct or install motorized equipment, mechanical transport, aircraft, aircraft landing strips, heliports, helispots, installations or structures in designated wilderness areas, and prescribe conditions under which such items may be used, transported or installed by other Federal, State or county agencies or their agents, to meet the minimum requirements for protection and administration of the wilderness area and its resources.

(b) Authorize occupancy and use of wilderness areas by officers, employees, agencies or agents of the Federal, State and local governments to carry out the purposes of the Wilderness Act.

(c) Prescribe measures to be taken, as necessary, to control fire, insects and diseases where these threaten human life, property or high value resources within the wilderness area or on adjacent nonwilderness lands.

(d) Prescribe measures which may be used in emergencies involving the health and safety of persons or damage to property, including the conditions for use of motorized equipment, mechanical transport, aircraft, installations and structures.

### **§ 8560.4 Nonconforming uses.**

All uses specifically permitted in wilderness areas by the Wilderness Act and subsequent laws shall be conducted in a manner that will preserve the wilderness character of the land, except as otherwise provided in the Wilderness Act and this part.

#### **§ 8560.4-1 Livestock grazing.**

(a) The grazing of livestock, where such use was established before the date of the establishment of the area as a unit of the National Wilderness Preservation System, shall be permitted to continue under the regulations on the grazing of livestock on public lands in part 4100 of this chapter and in accordance with any special provisions covering grazing use in wilderness areas that the Director may prescribe.

## **43 CFR Ch. II (10-1-99 Edition)**

(b) Grazing activities may include the construction, use and maintenance of livestock management improvements and facilities associated with grazing that are in compliance with wilderness area management plans provided for in the Wilderness Management Policy (46 FR 47180, September 24, 1981) approved by the authorized officer.

#### **§ 8560.4-2 Aircraft and motorboats.**

The authorized officer may permit the landing of aircraft and use of motorboats at places within any wilderness area where these uses were established before the date the area was designated by Congress as a unit of the National Wilderness Preservation System, and where such uses have continued, subject to such restrictions as he/she finds necessary. The authorized officer may also permit the maintenance of aircraft landing strips, heliports or helispots that existed when the area was designated a unit of the National Wilderness Preservation System.

#### **§ 8560.4-3 Access.**

(a) States or persons, and their successors in interest, who own lands completely surrounded by a wilderness area shall be given such rights as may be necessary to assure adequate access to such lands, or the private or State land shall be exchanged for federally owned land of approximately equal value within the same State under authorities available to the Secretary of the Interior.

(b) Persons with valid mining claims or other valid occupancies wholly within wilderness areas shall be permitted access to such surrounded occupancies by means that are consistent with the preservation of such wilderness and that have been or are being customarily used with respect to other such occupancies surrounded by wilderness. Permits issued under 43 CFR part 2800 or 2880, or plans approved under 43 CFR subpart 3809 by the authorized officer shall prescribe the routes of travel to and from the occupancies surrounded by wilderness, the mode of travel, and other conditions reasonably necessary to preserve the wilderness areas.

(c) No roads shall be constructed across wilderness areas unless permitted by the authorized officer. Access by routes or modes of travel not available to the general public may, when fully justified, be permitted by written authorization of the authorized officer. The authorization shall prescribe routes and modes of travel which will result in impacts of least duration and degree on wilderness characteristics, and at the same time, serve the reasonable purposes for which the lands are held or used.

#### § 8560.4-4 Commercial services.

The authorized officer may permit temporary structures and commercial services such as those provided by packers, outfitters and guides within wilderness areas to the extent he/she finds necessary for activities appropriate for realizing the recreational or other wilderness purposes of the area.

#### § 8560.4-5 Gathering information about resources.

(a) Any person desiring to conduct any activity for purposes of gathering information about natural resources in wilderness may do so provided it is carried on in a manner compatible with the preservation of the wilderness environment. Where required by other law or regulation, such person shall obtain the necessary permits or authorizations. The authorized officer in granting such permits or authorizations shall allow such activities, subject to such restrictions as he/she may impose to insure that they are carried on in a manner compatible with the preservation of the wilderness environment. This section shall not apply to mineral prospecting under the mining or mineral leasing laws conducted prior to the date when the mining and mineral leasing laws cease to apply to the respective component of the system. (See § 8560.4-6.)

(b) Any person desiring to use motor vehicles, motorized equipment, mechanized transport, or to land aircraft for mineral prospecting or for gathering information about resources, shall notify the Bureau in writing. No form of overland mechanical transport may be used unless approved in accordance with subparts 2920, 3045, 3209 or 3509 of

this title. If a permit is required, it shall provide for the protection of public land resources, including wilderness characteristics, protection of the public and restoration of disturbed areas, and may provide for the posting of performance bonds.

#### § 8560.4-6 Mining law administration.

The United States mining laws shall apply to each wilderness area under the jurisdiction of the Bureau for the period specified in the Wilderness Act and subsequent establishing legislation to the same extent they were applicable immediately prior to the designation of the area as part of the National Wilderness Preservation System.

(a) No person shall obtain any right or interest in or to any mineral deposits that may be discovered through prospecting or other information-gathering activity after the date on which the United States mining laws cease to apply to the specific wilderness area.

(b) No mining operations shall be conducted on Bureau-administered wilderness areas without an approved plan of operations where required by subpart 3809 of this chapter.

(c) Holders of valid mining claims established on any Bureau-administered wilderness area before the date such unit was included in the National Wilderness Preservation System shall be accorded the rights provided by the United States mining laws then applicable to the public lands involved.

(d) Any person prospecting or locating a mining claim in a Bureau-administered wilderness area on or after the date the wilderness area was included in the National Wilderness Preservation System, but prior to the date on which the mining laws cease to apply to that area, shall have the rights provided by the United States mining laws, subject to the provisions of the Wilderness Act and subsequent establishing legislation.

(e) All mining claimants shall comply with the reasonable stipulations established by the authorized officer for the protection of resources in accordance with the general purposes of maintaining the National Wilderness Preservation System unimpaired for future use and enjoyment as wilderness

and preserving its wilderness character, consistent with the use of the lands for mineral exploration, development, drilling and production, and for transmission lines, water lines, telephone lines or facilities necessary in exploring, drilling, producing, mining and processing operations. Where the use of mechanized transport, aircraft and motorized equipment is essential, these stipulations shall control their use.

(f) As soon as feasible after mining operations cease, but no more than one year thereafter, the operator shall remove all structures, equipment and other facilities and, no more than 6 months thereafter, commence reclamation. Reclamation, including appropriate revegetation, shall be completed within a reasonable time as determined by the authorized officer. Whenever possible and feasible, reclamation shall restore the surface to a contour which appears to be natural, although this may not be the original contour. Where such measures are impractical or impossible, as determined by the authorized officer, reclamation shall provide the maximum achievable slope stability.

(g) The authorized officer may require the posting of a cash or surety bond or other guarantee in such amount as the authorized officer determines to be sufficient to defray the costs of reclamation.

(h) In the development and operation of mining claims, claimants shall, to extent practicable as determined by the authorized officer and consistent with the use of lands for mineral development, prevent erosion, deterioration of the lands, impairment of their wilderness character, and the obstruction, pollution, or siltation of the streams, lakes and springs.

(i) The owner of patented mining claims located after the lands were included in the National Wilderness Preservation System may cut and use as much of the mature timber as is needed in the extraction, removal and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available. The cutting shall comply with sound principles of forest management as set forth in stipulations issued by the authorized officer.

(j) Where there exists no current approved mineral examination report concluding that unpatented mining claims are valid, prior to approving plans of operations or allowing previously approved operations to continue on unpatented mining claims after the date on which the lands were withdrawn from appropriation under the mining laws, the authorized officer shall cause a mineral examination of the unpatented mining claim to be conducted by a Bureau of Land Management mineral examiner to determine whether or not the claim was valid prior to the withdrawal and remains valid. If the approved mineral examination report concludes that the claim lacks a discovery of a valuable mineral deposit, or is invalid for any other reason, the authorized officer shall either deny the plan of operation or, in the case of an existing approved operation, issue a notice ordering the cessation of operations and shall promptly initiate contest proceedings to determine the status of the claim conclusively. However, neither the adverse conclusions of an approved mineral examination report nor the pendency of contest proceedings shall constitute grounds to disallow a plan of operations to the extent the plan proposes operations that will cause only insignificant surface disturbance and are for the purpose of:

(1) Taking samples or gathering other evidence of claim validity to confirm and corroborate mineral exposures which are physically disclosed and existing on the claim prior to the withdrawal date, or (2) performing the minimum necessary annual assessment work as required by §3851.1 of this title. Surface disturbance exceeding the insignificant level is permissible only when it is the minimum disturbance necessary to remove mineral samples to confirm and corroborate pre-existing exposures of a valuable mineral deposit discovered prior to the withdrawal. The requirement in this subsection for a mineral examination shall not cause a suspension of the time limitations governing approval of operating plans contained in §3809.1-6 of this title. Once a final administrative decision is rendered declaring a claim to be null and void, all operations, except required reclamation

## Bureau of Land Management, Interior

## § 8560.5

work, shall be disallowed and shall cease unless and until such decision is reversed in a judicial review action.

(k) Activities, including prospecting under the United States mining laws, for the purpose of gathering information about minerals in wilderness, shall be allowed, except that any such activity for gathering mineral information after the date on which the United States mining laws cease to apply shall be conducted in a manner compatible with the preservation of the wilderness environment. After such date, mining claims shall not be located in wilderness areas.

[50 FR 7708, Feb. 25, 1985, as amended at 51 FR 15893, Apr. 29, 1986]

### § 8560.4-7 Mineral leases and mineral permits.

(a) No mineral leases shall be issued under the mineral leasing laws in any wilderness area on public lands.

(b) Holders of valid mineral leases established on any Bureau-administered wilderness area before the date such unit was included in the National Wilderness Preservation System shall be accorded the rights granted by the terms and conditions of the specific leases.

(c) Subject to valid existing rights, no person shall obtain any right or interest in or to any mineral deposits that may be discovered in a wilderness area through prospecting or other information-gathering activity after the date on which the laws pertaining to

mineral leasing cease to apply to the specific wilderness area.

(d) Permits shall not be issued for the removal of mineral materials commonly known as *common varieties* under the Materials Act of July 31, 1947, as amended and supplemented (30 U.S.C. 601, 604).

### § 8560.4-8 Water and power resources.

Prospecting for water resources and the establishment of new reservoirs, water-conservation works, power projects, transmission lines and other facilities needed in the public interest, and the subsequent maintenance of such facilities, all pursuant to section 4(d)(4)(1) of the Wilderness Act, may be permitted if specifically authorized by the President.

### § 8560.5 Penalties.

(a) Any person who knowingly and willfully violates the regulations in § 8560.1-2 is subject to arrest, conviction and punishment by a fine of not more than \$1,000 or imprisonment for not more than 12 months, or both.

(b) At the request of the Secretary of the Interior, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of the regulations of this part.

## Group 8600—Environmental Education and Protection [Reserved]